

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO: 13937 of 1998

Between:

1 B.R.Dayanand, S/o B. Ramalingam,
R/o 49 MIGH, Bharatnagar, Hyderabad.
(WP is dismissed as withdrawn in as far as the petitioner No.1

in as per court order in WPMP.No.9527/02 dt:17.7.02)

2 M. Mohan Babu Rao, S/o Sangeeta Rao,
R/o 19 MIGH, Bharatnagar Colony,
Hyderabad.

3 Muztar Ali, S/o Ali Hussain
R/o 33 MIGH, Bharatnagar Colony,
Hyderabad.

4 Smt. Krupavaram, W/o Sri Krupa Rao,
R/o 64 MIGH, Bharatnagar Colony, Hyderabad.
(WP is dismissed as withdrawn in as far as 4th petitioner as

per court order in WPMP.No.23544/99 dt:18.11.99)

5 K.S.S. Sarma, S/o Vishwanatham,
R/o 20 MIGH, Bharatnagar Colony,
Hyderabad.

6 P. Vasanthi , W/o Abrekar ,
R/o 16 MIGH, Bharatnagar Colony, Hyderabad.

7 Mohd. Azam, S/o Late Md. Ismail,
R/o 29 MIGH, Bharatnagar Colony, Hyderabad.
(WP is dismissed as withdrawn in as far as 7th petitioner as

per court order in WPMP.No.19804/01 dt:8.8.01)

8 Pushpalata, W/o Malla Reddy,
R/o 39 MIGH, Bharatnagar Colony, Hyderabad.

9 V.S. Prabhakar Rao, S/o Venkataramaiah,
R/o 2 MIGH, Bharatnagar Colony, Hyderabad.
(WP is dismissed as withdrawn in as far as 9th petitioner as

per court order in WPMP.No.4242/04 dt:18.3.04)

10 M. Rama Rao, S/o M. John,

R/o 65 MIGH, Bharatnagar Colony, Hyderabad.
11 Smt. S. Meenakshi, D/o Ramalingam,
R/o 51 MIGH, Bharatnagar Colony, Hyderabad.

... PETITIONERS

AND

- 1 The A.P. Housing Board, Rep. by Vice Chairman,
Gruhakalpa, M.J. Road,
Hyderabad.
- 2 The Executive Engineer,
A.P. Housing Board, Gruhakalpa,
M.J. Road, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, Order or direction declaring that the Unilateral action of the respondents in enhancing the Cost of Rs. 85,000/- contrary to Regulation 23 of the Regulations as arbitrary, unreasonable, unjust and violative of fundamental rights and Constitutional rights Guaranteed under Art, 14, 21 & 300 A of the Constitution of India and issue consequential directions to the respondents not to give effect to the final cost price mentioned above.

Counsel for the Petitioners: Mr. M.V. Srinivasa rao

Counsel for the Respondents: MR.B.H.R.CHOWDARY

The Court made the following:

ORDER:

This writ petition is filed seeking a direction declaring that the unilateral action of the respondents in enhancing the cost of Rs.85,000/- contrary to Regulation 23 of the Regulations as arbitrary, unreasonable, unjust and violative of fundamental rights and constitutional rights guaranteed under Articles 14, 21 and 300-A of the Constitution of India and for a consequential direction to the respondents not to give effect to the final cost price mentioned above.

2. Heard the counsel on either side.

3. Petitioners' case is that they had applied for flats under the scheme promulgated by the A.P. Housing Board under the A.P. Housing Board "Allotment, Management of middle income group houses) Regulations, 1975 (for short 'the Regulations') and were allotted duplex flats vide allotment letter No.01746/ET/80 dated 31-10-1980 on hire purchase system on the basis of the drawal of lots conducted on 12-10-1980. It is stated that the total consideration for those flats was fixed at Rs.59,000/-, out of which 20%, which was required to be payable at the time of allotment, was paid by the petitioners and possession was taken and the balance sale consideration was payable in twelve monthly installments, which petitioners claim that they had paid till 1992. While things stood thus, second respondent had issued a notice bearing No.MIG/F6/BNC/EE (N) 93 dated 28-03-1993 *inter alia* fixing the final costs of the allotted residential duplex flats at Rs.85,000/-. It is alleged that second respondent issued another notice dated 28-06-1993 intimating that the difference in the cost of the flat allotted is Rs.26,000/- and a demand notice was also issued, against which, petitioners state that they made representations to the first respondent. The main grievance of the petitioners is that after 12 years and after payment of entire cost fixed, first respondent, without pointing any reason, fixed final cost at Rs.85,000/-, proportionately increasing the payment of Rs.26,000/- for each allottee.

4. Learned counsel for the petitioners contends that after the petitioners had paid the entire sale consideration and after a period of 12 years, without pointing any reason, first respondent has enhanced the final cost of the flats to Rs.85,000/-, which is contrary to the regulations.

5. Admittedly Clauses 16 and 17 mentioned in the lease-cum-sale agreement entered into between the petitioners and the 1st respondent, provide specific circumstances under which the 1st respondent could increase the cost of the flat. So, when there are specific clauses in the lease-cum-sale agreement with regard to the enhancement of the final cost of the Flats, petitioners cannot question the action of the respondents in enhancing the cost of flats. This Court cannot grant the relief sought by the petitioners for it arises out of an agreement between the petitioners and the respondents.

I see no merit in the writ petition and it is accordingly dismissed. No costs. However, the petitioners are at liberty to represent to the respondents seeking installments to pay the amount. On such representation, if any, being filed, respondents shall consider the same and pass appropriate orders on the same, in accordance with law.

N.V. RAMANA, J

March 2, 2005

MRR

Copy to:

- 1 The Vice Chairman, A.P. Housing Board, Gruhakalpa, M.J. Road, Hyderabad.
- 2 The Executive Engineer, A.P. Housing Board, Gruhakalpa, M.J. Road, Hyderabad.
- 3 Two C.D. Copies.